THE HON'BLE SRI JUSTICE L. NARASIMHA REDDY

WRIT PETITION No.14774 of 2001

DATED:19.07.2006

Between:

B. Venkata Rao

..Petitioner

And

The Commissioner, Gajuwaka Municipality, Gajuwaka, Visakhapatnam. And another

..Respondents

THE HON'BLE SRI JUSTICE L. NARASIMHA REDDY

WRIT PETITION No.14774 of 2001

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ORDER:

The petitioner states that he is the absolute owner of plot Nos. 5 and 6, in an extent of 342 square yards, in T.D.No.22, in Sy. No.44/15 of Gajuwaka, having purchased the same through a registered sale deed, dated 23.06.1999. According to him, he submitted an application to the Gajuwaka Municipality, the 1st respondent herein, seeking permission to construct, and since the same was neither rejected nor allowed, permission is deemed to have been accorded to him. It is further contended that the building has been constructed and was assessed to tax.

The third respondent issued a notice, dated 21.03.2001, to the petitioner under Sections 42 (1) and 43 (1) of the Andhra Pradesh Urban Areas (Development) Act, 1975, stating that he is undertaking an unauthorized construction over the Government land and he was required to explain within seven days, as to why the construction being undertaken, shall not be removed. The petitioner states that he has submitted an explanation on 27.03.2001, and without passing any orders thereon, the respondents tried to demolish the building. He sought appropriate direction from this Court, in this regard.

Heard the learned counsel for the petitioner.

Learned Standing Counsel for the respondents submits that the petitioner started construction unauthorisedly and since there was serious dispute as to the title, the impugned notice was issued. He submits that even before any decision could be taken upon the notice and explanation submitted by the petitioner, he had approached this Court.

The impugned notice was issued to the petitioner pointing out several violations. The petitioner states that he has submitted the explanation on 27.03.2001. It is not known as to why it was not received by the respondents at all. While admitting the writ petition, this Court directed that the respondents shall not demolish the building constructed in Sy. No.44/15 and at the same time, the petitioner was restrained from making further construction.

Having regard to the facts and circumstances of the case, the Writ Petition is disposed of, directing that it shall be open to the respondents to pass appropriate orders on the basis of the explanation said to have submitted by the petitioner and communicate the result thereon, within two months from the date of receipt of a copy of this order. The further action, if any, against the petitioner, would depend upon the out-come of such consideration. Till such time, the directions issued by this Court on 20.07.2001 in W.P.M.P.No.18496 of 2001, shall remain in force. There shall be no order as to costs.

L. NARASIMHA REDDY, J

19th July 2006.

GJ